

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ELIZABETH BECKLEY)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE
v.)	NO. 1:16-CV-01435-MHC
)	
CITY OF ATLANTA)	
)	
Defendant.)	

DEFENDANT’S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF’S COMPLAINT

COMES NOW, the City of Atlanta, Defendant, and answers the Complaint
in the instant case as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint or parts thereof fails to state a claim upon which relief may
be granted.

SECOND DEFENSE

Defendant at all times acted in good faith.

THIRD DEFENSE

Defendant did not deprive Plaintiff of any right, privilege, or immunity secured by the Constitution or laws of the United States of America, the Constitution or laws of the State of Georgia, or the ordinances of the City of Atlanta.

FOURTH DEFENSE

Insofar as Plaintiff has been affected by the conduct of the City, said Defendant's actions were reasonable, proper and necessary under the circumstances and were taken in the good faith exercise of its duties and responsibilities imposed by law.

FIFTH DEFENSE

The City is entitled to the benefit of all applicable damages caps under federal and state law.

RESPONSES TO SPECIFIC ALLEGATIONS

Subject to and without waiving the above-stated defenses, Defendant responds to the numbered paragraphs of Plaintiff's Complaint as follows:

I. Introduction

1.

Paragraph 1 contains a statement of the Plaintiff's asserted cause of action that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute liability against the Defendant by asserting the allegations contained in Paragraph 1, the same are denied.

2.

Defendant is without information or knowledge sufficient to respond to the allegations regarding Plaintiff's abilities or experiences as set forth in Paragraph 2 of Plaintiff's Complaint; therefore, they are denied.

3.

Paragraph 3 contains a statement of the Plaintiff's relief sought in this lawsuit, motivations, and intent that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute liability against the Defendant by asserting the allegations contained in Paragraph 3, the same are denied.

4.

Paragraph 4 contains statements of the Plaintiff's relief sought in this lawsuit, motivations, and intent that requires no response by Defendant. Plaintiff's

remaining allegations consisting of legal conclusions and imputing liability upon the Defendant are denied.

II. Jurisdiction and Venue

5.

Paragraph 5 contains statements of jurisdiction that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 5, the same are denied.

6.

Paragraph 6 contains statements of jurisdiction that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 6, the same are denied.

7.

Paragraph 7 contains statements of venue that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 7, the same are denied.

III. Parties

8.

The first sentence of Paragraph 8 contains a conclusion of law that requires no response by Defendant. To the extent that a response is required to the first sentence of Paragraph 8, or that Plaintiff seeks to impute or imply liability against the Defendant, the same are denied. Defendant is without information or knowledge sufficient to respond to the allegations set forth in the second sentence of Paragraph 8 of Plaintiff's Complaint; therefore, they are denied.

9.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 9 of Plaintiff's Complaint; therefore, they are denied.

10.

Paragraph 10 contains statements of jurisdiction that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 10, the same are denied.

11.

Paragraph 11 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 11, the same are denied.

12.

Paragraph 12 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 12, the same are denied.

13.

Paragraph 13 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 13, the same are denied.

14.

Paragraph 14 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to

impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 14, the same are denied.

IV. Facts

15.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 15 of Plaintiff's Complaint; therefore, they are denied.

16.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 16 of Plaintiff's Complaint; therefore, they are denied.

17.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 17 of Plaintiff's Complaint; therefore, they are denied.

18.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 18 of Plaintiff's Complaint; therefore, they are denied. To the extent that a response is required, or that Plaintiff seeks to impute or

imply liability against the Defendant by asserting the allegations contained in Paragraph 18, the same are denied.

19.

The allegations contained in Paragraph 19 are denied as written.

20.

Paragraph 20 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 20, the same are denied.

21.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 21 of Plaintiff's Complaint; therefore, they are denied.

22.

Paragraph 22 contains a legal conclusion regarding safety that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 22, the same are denied. Defendant is without information

or knowledge sufficient to respond to the remaining allegations set forth in Paragraph 22 of Plaintiff's Complaint; therefore, they are denied.

23.

The allegations contained in Paragraph 23 are denied as written.

24.

The allegations contained in Paragraph 24 are denied as written.

25.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 25 of Plaintiff's Complaint; therefore, they are denied.

26.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 26 of Plaintiff's Complaint; therefore, they are denied.

27.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 27 of Plaintiff's Complaint; therefore, they are denied.

28.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 28 of Plaintiff's Complaint; therefore, they are denied.

29.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 29 of Plaintiff's Complaint; therefore, they are denied.

30.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 30 of Plaintiff's Complaint; therefore, they are denied.

31.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 31 of Plaintiff's Complaint; therefore, they are denied.

32.

Defendant is without information or knowledge sufficient to respond to the allegations set forth in Paragraph 32 of Plaintiff's Complaint; therefore, they are denied.

33.

Paragraph 33 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 33, the same are denied.

34.

Defendant denies the allegations contained in Paragraph 34 of Plaintiff's Complaint as stated.

V. Legal Claims

Count I. – Title II of the Americans With Disabilities Act (ADA)

35.

Defendant incorporates by reference its responses to Paragraphs 1 through 34, as if fully set forth herein.

36.

Paragraph 36 contains a statement of law that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 36, the same are denied.

37.

Paragraph 37 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 37, the same are denied

38.

Paragraph 38 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 38, the same are denied.

39.

Paragraph 39 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to

impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 39, the same are denied.

40.

Paragraph 40 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 40, the same are denied.

41.

Paragraph 41 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 41, the same are denied.

42.

Defendant denies the allegations contained in Paragraph 42 of Plaintiff's Complaint as stated.

43.

Paragraph 43 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to

impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 43, the same are denied.

44.

Paragraph 44 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 44, the same are denied.

45.

Paragraph 45 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 45, the same are denied. Defendant is without information or knowledge sufficient to respond to the factual allegations set forth in Paragraph 45 of Plaintiff's Complaint; therefore, they are denied.

46.

Paragraph 46 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 46, the same are denied.

47.

Paragraph 47 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 47, the same are denied.

48.

Paragraph 48 contains a legal conclusion that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 48, the same are denied.

Count II – Rehabilitation Act

49.

Defendant incorporates by reference its responses to Paragraphs 1 through 48, as if fully set forth herein.

50.

Paragraph 50 contains a statement of law that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to

impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 50, the same are denied.

51.

Defendant admits the allegation contained in Paragraph 51.

52.

Paragraph 52 contains a conclusion of law that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 52, the same are denied.

53.

Paragraph 53 contains conclusions of law that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 53, the same are denied.

54.

Paragraph 54 contains conclusions of law that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 54, the same are denied.

55.

Paragraph 55 contains conclusions of law that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 55, the same are denied.

56.

Paragraph 56 contains a statement of law that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 56, the same are denied.

57.

Paragraph 57 contains a conclusion of law that requires no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 57, the same are denied.

58.

Paragraph 58 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations

contained in Paragraph 58, the same are denied. Defendant is without information or knowledge sufficient to respond to the factual allegations set forth in Paragraph 58 of Plaintiff's Complaint; therefore, they are denied.

59.

Paragraph 59 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 59, the same are denied.

60.

Paragraph 60 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 60, the same are denied.

61.

Paragraph 61 contains legal conclusions that require no response by Defendant. To the extent that a response is required, or that Plaintiff seeks to impute or imply liability against the Defendant by asserting the allegations contained in Paragraph 61, the same are denied.

WHEREFORE, any other allegation contained in Plaintiff's Complaint and any subparagraph or subpart, whether numbered or unnumbered, which is not specifically responded to in this Answer, is specifically denied by Defendant. Defendant denies that it is liable to Plaintiff in any manner or that Plaintiff is entitled to any relief as prayed for in paragraphs (a) through (g) of Plaintiff's prayer.

WHEREFORE, Defendants pray:

- (a) That all of Plaintiff's prayer for relief be denied;
- (b) That the action against Defendant be dismissed for failure to state a claim;
- (c) That all costs incurred by Defendant in defending this case be cast upon Plaintiff; and,
- (d) That Defendant be awarded any further relief the Court deems just and proper.

CERTIFICATION

Counsel for Defendant certifies that this pleading has been prepared with Times New Roman font, 14 point, and therefore it complies with the requirement of L.R. 5.1(C).

Respectfully submitted this 23rd day of May, 2016.

/s/ Robert N. Godfrey

ROBERT N. GODFREY

Chief Counsel

Georgia Bar No. 298550

/s/ Y. Soo Jo

Y. Soo Jo

Sr. Assistant City Attorney

Georgia Bar No. 385817

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ELIZABETH BECKLEY)	
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Plaintiff,)	
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v.)	CIVIL ACTION FILE
)	NO. 1:16-CV-01435-MHC
)	
CITY OF ATLANTA)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

This is to certify that I have this 23rd day of May, 2016 filed a copy of the foregoing with the Court's CM-ECF system which will automatically provide notice to all counsel of record.

RESPECTFULLY SUBMITTED this 23rd day of May, 2016.

/s/ Y. Soo Jo

Y. Soo Jo

Sr. Assistant City Attorney
Georgia Bar No. 385817